

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION**

**MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.,  
AS NOMINEE FOR JP MORGAN  
CHASE BANK,**

**PLAINTIFF,**

**VS.**

**CIVIL ACTION NO. 2:05CV112-P-B**

**LARRY BURSE, ET AL.,**

**DEFENDANTS.**

**ORDER OF REMAND**

This matter comes before the court upon Plaintiff's Motion for Emergency Remand [6-1].

Upon due consideration of the motion and the defendants' Notice of Removal – the defendants having filed no response to the motion to remand – the court finds as follows, to-wit:

The motion is well-taken and should be granted. The plaintiff is correct that there is no basis for federal question jurisdiction in this case. In the last sentence of their *pro se* Notice of Removal, the defendants maintain that "[r]emoval is proper because a Federal question is the basis for defense of the defendant and the defendants will not be able to access lawful remedy [sic] in the matter outside of Federal Court." However, removal to federal court by a defendant cannot be based on an alleged federal defense when the plaintiff's well-pleaded complaint on its face makes no reference to federal law. *Oklahoma Tax Comm'n v. Graham*, 489 U.S. 838 (1989); *Arkansas v. Kansas & Texas Coal Co.*, 183 U.S. 185, 188 (1901) ([J]urisdiction is not conferred by allegations that defendant intends to assert a defense based on the Constitution or a law or a treaty.")

**IT IS THEREFORE ORDERED AND ADJUDGED that:**

(1) Plaintiff's Motion for Emergency Remand [6-1] is hereby **GRANTED**;

(2) This case is to be **REMANDED** to the Justice Court of DeSoto County, Mississippi from whence it came; and

(3) The parties are to file no further pleadings in this matter, including motions to reconsider and the like. Instead, the parties are instructed to seek whatever relief to which they believe themselves entitled in the Courts of the State of Mississippi, as may be appropriate in due course.

**SO ORDERED** this the 17<sup>th</sup> day of August, A.D., 2005.

/s/ W. Allen Pepper, Jr. \_\_\_\_\_

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE